

MEMO ENDORSED

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January 23, 2008

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 1/28/08
DATE FILED: 1/28/08

VIA FEDERAL EXPRESS

Honorable Gerard E. Lynch
United States District Court for the
Southern District of New York
500 Pearl Street, Room 910
New York, NY 10007

Re: Axis Reinsurance Company v. Phillip Bennett, et al.
Index Nos.: 07-CV-07924 (GEL); 07-CV-09420 (GEL) 07-CV-09842 (GEL);
07-CV-9843 (GEL); and 07-CV-10302 (GEL)

Dear Judge Lynch:

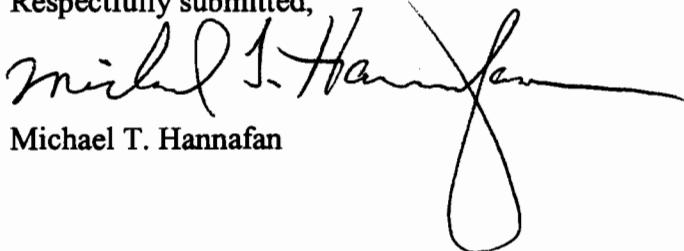
This firm represents defendant Tone Grant as co-counsel with Zuckerman Spaeder in the above captioned matters and other Refco related matters. Mr. Grant is also an indicted defendant who is scheduled to stand trial on March 17, 2008, before Judge Buchwald. I write to respectfully request that Your Honor immediately order Axis Reinsurance Company to continue complying with your Order dated January 2, 2008, where the Court denied Axis' application for a stay on advancement of defense costs in the Refco-related civil and criminal cases. The Court's requested supplemental briefing on the issue is not scheduled to be completed until February 5. In the meantime, as discussed below, Axis and its lawyers have effectively granted themselves a stay on advancing defense costs due to be paid by January 19, 2008.

Shortly after the Court entered its Order of January 2 denying Axis' application for a stay, Axis promptly delivered defense cost checks to defense counsel dated December 18, 2007, for payment of bills submitted to November 19. Now, however, Axis has ignored the Order by failing to pay the defense cost bills submitted to Axis' counsel by December 18, 2007. We wrote to both Ms. Joan Gilbride and Robert Benjamin, counsel for Axis, on January 18, January 21 and January 22, 2008, asking them when we may expect to receive payment for our invoices submitted through December 18. Rather than directly answering our question, the Axis lawyers coyly replied on January 21 that "Payments are being processed in the normal course and in accord with Judge Drain's order [of October 19, 2007]." Our further request for information on billing payments has been completely ignored. To date, we have not been paid for our work and costs advanced to December 19 on behalf of Mr. Grant. To our knowledge, no payments have been made by Axis to others, either.

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If, in fact, Axis was "processing" the payments "in the normal course," all defense attorneys would have received checks by now. It is not lost on us that Axis may be playing fast and loose with the Court's January 2 Order by attempting to delay any further payments as long as possible in the hope of obtaining a decision from the Court in its favor at some time beyond February 5. That certainly cannot be the intent of Your Honor's denial of stay order or Judge Drain's order. Indeed, Axis' action smells of contempt. Therefore, we respectfully request that the Court exercise its equitable power by ordering Axis to immediately deliver checks in payment of defense costs billed through December 19, 2007, to all defense counsel. A proposed Order is attached as Exhibit A.

Respectfully submitted,


Michael T. Hannafan

MTH/dmm

Enc.

cc: All Counsel (via e-mail only)

The Court expects Axis to continue to comply with Court orders requiring advancement of fees by paying in an expeditious manner. There is no need for further orders and no indication that Axis is failing to comply.

SO ORDERED
Gerard E. Lynch
GERARD E. LYNCH, U.S.D.J.

1/28/08